



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

CRH
F#2016R00308

*271 Cadman Plaza East
Brooklyn, New York 11201*

March 25, 2020

By ECF

The Honorable Robert M. Levy
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Bernard Raymond Augustine
Docket No. 18-CR-393 (SJ) (RML)

Dear Judge Levy:

The government writes to respectfully request an adjournment of the suppression hearing in this case, which is currently scheduled for April 7, 2020, to a date convenient for the court after the current emergency distancing measures, and after the defendant's request for new counsel is resolved.

As the Court is aware, Chief Judge Muaskopf has issued several administrative orders in response to the COVID-19 virus. Judge Muaskopf ordered that time is excluded under the Speedy Trial Act in all criminal matters between March 16 and April 27, 2020. See Administrative Order No. 2020-06. Judge Muaskopf also ordered that “[i]ndividual judges may continue to hold hearings, conferences, and bench trials in the exercise of their discretion,” but that “[j]udges are strongly encouraged to conduct court proceedings by telephone or video conferencing where practicable, and/or adjourn matters or deadlines...where in-person meetings, interviews, depositions, or travel would be necessary to prepare for any such proceedings.” *Id.* Both in-person meetings and travel for two government witnesses is necessary to prepare for the suppression hearing in this case. Additionally, one of the two government witnesses is currently located in Europe, and unable to travel to the United States at this time. For these reasons, the government submits that it is appropriate to adjourn the suppression hearing to a future date when travel and in-person meeting is more readily available and appropriate.

In addition, on or about March 16, 2020, the defendant filed a letter directed to Judge Johnson requesting new counsel or, in the alternative, to proceed pro se in the case. See Letter, dated March 11, 2020 (Docket Entry No. 70). The government believes that the nature of the defendant's representation should be resolved prior to the suppression hearing, and submits that this motion represents an additional basis to adjourn the hearing to a new date.

Accordingly, the government respectfully requests that the April 7, 2020 suppression hearing be adjourned to a new date that is convenient for the court, and that time be excluded to that date. See 18 U.S.C. § 3161(h)(1)(D) (delay resulting from filing of any pretrial motion), (h)(7)(A) (ends of justice served by delay). The government has conferred with defense counsel, and has been advised that they take no position on this matter.

Respectfully submitted,

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cc: Clerk of Court (by email)
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